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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/598,890	06/22/2000	Manfred Berndt	4481-022	8565

7590

07/07/2003

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EXAMINER

GORDON, BRIAN R

ART UNIT

PAPER NUMBER

1743

DATE MAILED: 07/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/598,890

Applicant(s)

BERNDT, MANFRED

Examiner

Brian R. Gordon

Art Unit

1743

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.


Claim(s) objected to: 18,19,21,22 and 27.

Claim(s) rejected: 17,20,23-26,29-31 and 47-50.

Claim(s) withdrawn from consideration: 32-46 and 51-55.

8. ☒ The proposed drawing correction filed on 14 May 2003 is a) ☒ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

Continuation of 2. NOTE New issues have arisen from the amendment. The claim in it's broadest interpretation is simply a sealed container with a substance contained therein. Although applicant intended use for the device is to supply a microchip of a particular structure, this intended use has no weight in the patentability of the claim. It is well know in the art that a test tube with a septum seal may read on the supply element as claimed in claim 17 of Paper No. 19. Claim 17 is also written in a form that claims "a supply element for a laboratory microchip". The combination of the microchip and the supply element is neccessry because the supply element is claimed in refernce to the structure of microchip; therefore the microchip should be postively claimed as an element of the invention (combination of a microchip and supply element). Since the microchip is not positively claimed as an element of the device, the microchip structure has no weight on the patentability of claim 17. As to claims 32-46 and 51-55, previously withdrawn, the claims have not previously been considered and now any consideration of the claims would require the consideration of methods not previously searched .

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700